



## ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

## (1) Second Account Current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and Attorney [Prob. C. 2620; 2623; 2942]

<b>Age: 97 years</b>			<b>PUBLIC GUARDIAN</b> , Conservator, is petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
			Account period: 7/1/10 – 6/30/12	
<b>Cont. from</b>			Accounting - <b>\$2,627,177.69</b>	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		Beginning POH - <b>\$2,583,184.38</b>	
<input checked="" type="checkbox"/>	<b>Verified</b>		Ending POH - <b>\$2,362,575.27</b>	
			(\$230,482.36 is cash)	
<input type="checkbox"/>	<b>Inventory</b>			
<input type="checkbox"/>	<b>PTC</b>		Conservator - <b>\$3,953.68</b> (25.43	
<input type="checkbox"/>	<b>Not.Cred.</b>		Deputy hours @ \$96/hr and 19.90 Staff	
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>		hours @ \$76/hr)	
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>	W/	Attorney - <b>\$2,500.00</b> (per	
			Local Rule)	
<input type="checkbox"/>	<b>Aff.Pub.</b>			
<input checked="" type="checkbox"/>	<b>Sp.Ntc.</b>	W/	Bond fee - <b>\$1,544.14</b> (o.k.)	
<input type="checkbox"/>	<b>Pers.Serv.</b>			
<input type="checkbox"/>	<b>Conf. Screen</b>		<b>Petitioner prays for an Order:</b>	
<input type="checkbox"/>	<b>Letters</b>		1. Approving, allowing and settling	
<input type="checkbox"/>	<b>Duties/Supp</b>		the second account.	
<input type="checkbox"/>	<b>Objections</b>		2. Authorizing the conservator and	
<input type="checkbox"/>	<b>Video Receipt</b>		attorney fees and commissions	
<input type="checkbox"/>	<b>CI Report</b>		3. Payment of the bond fee	
<input type="checkbox"/>	<b>9202</b>			
<input checked="" type="checkbox"/>	<b>Order</b>		<b>Court Investigator Jennifer Young's</b>	
<input type="checkbox"/>	<b>Aff. Posting</b>		<b>Report filed on 9/14/12.</b>	
<input type="checkbox"/>	<b>Status Rpt</b>			<b>Reviewed by: KT</b>
<input type="checkbox"/>	<b>UCCJEA</b>			<b>Reviewed on: 9/28/12</b>
<input type="checkbox"/>	<b>Citation</b>			<b>Updates:</b>
<input type="checkbox"/>	<b>FTB Notice</b>			<b>Recommendation:</b>
				<b>File 2 - Ohanesian</b>

<b>DOD: 2-24-09</b>		<b>WALTER G. JONES</b> , Executor with Full IAEA without bond, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Minute Order 9-12-12: The Court is advised that they are still waiting on Bank of America.</b>  <b>As of 9-27-12, nothing further has been filed.</b>  <b>Note:</b> As sole heir pursuant to Decedent's will, Petitioner waived accounting; however, under Probate Code § 10954(c)(2), a creditor whose interest has not been satisfied may petition for account.  The Bank of America Creditor's Claim was allowed, but is not paid.  <i>Examiner notes that Notice of Hearing was mailed to the creditor on 8-10-12. Nothing has been filed.</i>  <p style="text-align: center;"><b><u>SEE PAGE 2</u></b></p>
		Accounting is waived.	
		I&A: \$ 240,000.00 (residence)	
		POH: \$ 1,500.00 (cash in attorney trust account)	
<b>Cont. from 091212</b>		Executor (Statutory): Waived	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>	Attorney (Statutory): \$6,550.00	
<input checked="" type="checkbox"/>	<b>Verified</b>	Costs: \$435.00 (filing)	
<input checked="" type="checkbox"/>	<b>Inventory</b>	<b>Petitioner states that except for the funds held in the attorney trust account, there are no remaining assets of the estate.</b>	
<input checked="" type="checkbox"/>	<b>PTC</b>	Petitioner states he obtained a line of credit for about \$65,000.00 against the residence and took a draw against the line of credit for about \$65,000.00, less \$6,650.00 in loan processing and appraisal fees, a loan broker fee of \$6,000.00, a document preparation fee of \$750.00, and prepaid interest in the amount of \$13,750.00, resulting in a net distribution to Petitioner of about \$37,850.00. Except for \$3,062.00 used for residence maintenance expenses, Petitioner advises the Court that he used the remaining portion of the draw for his personal living expense, including a new business venture, against the advice of his counsel.	
<input checked="" type="checkbox"/>	<b>Not.Cred.</b>	Petitioner subsequently sold the real property, at which time all amounts owed on the property, including the line of credit, were paid. Petitioner received \$19,887.02 from the sale, and again, contrary to the advice of his counsel, used the proceeds to pay for his own medical expenses. Petitioner states his only income is approx. \$880.00/month from Social Security, and prior to the sale, Petitioner had suffered a serious stroke. Petitioner apologizes to the Court and asks the Court's forgiveness for his lapse in judgment in using estate funds to pay his own expenses.	
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>	Petitioner states that the \$1,500.00 remaining in the attorney trust account will be used toward attorney fees and costs, and that he will assume personal responsibility for payment of the remainder of the attorney fees and the creditor's claim of Bank of America (\$1,965.21) by assigning liens on a future inheritance (attached).	
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>	<b>Petitioner prays for an Order</b> confirming and approving his acts and proceedings, ordering his personal liability to pay the creditor's claim and the balance of the attorney fees in accordance with the "Priority Assignment of Beneficial Interest in Estate of Dorothy Jones Ripperdan" and "Secondary Assignment," and distribution of property now now known or discovered to Petitioner.	
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input checked="" type="checkbox"/>	<b>Letters</b>		
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input checked="" type="checkbox"/>	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input checked="" type="checkbox"/>	<b>FTB Notice</b>		

Reviewed by: skc

Reviewed on: 9-27-12

Updates:

Recommendation:

File 4 - Jones

**Declaration of Attorney Barrus filed 9-11-12 states** the executor did not advise him that he was borrowing the money to fund a business. He advised his client that the funds could only be used for estate purposes and could not be distributed without court approval. The executor had no money to pay the operating expenses of the residence such as property taxes, utilities, repair and maintenance, and to pay creditors.

Mr. Barrus is informed by the law firm handling the estate of Dorothy Jones Ripperdan that the estate is not subject to probate; rather, a Petition to Determine Succession to Real Property. Copies of the Primary and Secondary Assignments of Beneficial Interest in the estate have been delivered to the firm handling the matter. In addition, the executor executed and filed an Assumption of Personal Liability for the balance of attorney fees and creditor's claim. The \$1,500 will be used to pay the filing fee and a portion of the attorney's statutory fee which are expenses of administration and have priority over payment of unsecured creditor's claims.

For an extended period, the executor did not respond to inquiries from his office. They had prepared a Petition for Final Distribution that was signed on 9-24-10; however, no provision had been made for payment of fees or creditor's claim. The attorney offered to take a note secured by a deed. Subsequently, the residence fell into foreclosure and it was anticipated that it would be lost. However, in August 2011, Mr. Barrus received word from Brian Gurule, a friend of the executor's, that there was a potential sale. Mr. Barrus advised Brian that there were estate expenses that would need to be paid from sale proceeds.

The sale closed on 9-9-11 without Attorney Barrus' knowledge. He had not had contact with the executor since 9-24-10, and was not contacted by the executor or the title company. On 12-15-11, he attempted to call the executor, but the phone number was no longer in service. He contacted Brian, who informed him of the sale. Brian then arranged with the executor to send \$1,500.00 immediately and was hopeful to make regular payments on the balance.

In July 2012, Mr. Barrus received a call from a local law firm to inform the executor that he is an heir of his great-aunt's estate that was subject to a Petition to Determine Succession to Real Property. Mr. Barrus attempted to contact the executor via the realtor who sold this real property, and was able to leave several voice messages. Mr. Barrus was aware that the executor had had a stroke, but did not know the nature of his incapacity. The office revised the Petition for Final Distribution and Mr. Barrus personally drove to the executor's new home for signatures. He advised him that he had violated his duties as executor and proposed that he assume personal liability for payment of the creditor's claim and fees, and also assign his interest in the estate. He agreed.

Contrary to the examiner's assertion, Mr. Barrus has done everything he could to ensure this matter timely closed. He did not control the executor or the sale of the residence. The delay was due, in part, to the sale of the residence, and in part because the executor failed to keep in contact with Mr. Barrus. In Mr. Barrus' opinion, the executor knew he had done something wrong and did not want to deal with it. The delay did, however, allow the residence to be sold instead of lost in foreclosure, and was, in that sense, in the best interest of the estate. The estate would not be ready for this hearing but for Mr. Barrus' efforts. As soon as the material facts were known, this petition was filed. Mr. Barrus did all he could in as timely a manner as possible given the circumstances.

**SEE ADDITIONAL PAGE**

**NEEDS/PROBLEMS/COMMENTS:**

1. Petitioner requests that the Court approve his acts and proceedings as Executor including:
  - *borrowing against and encumbering the real property of the estate without Court authorization, which is a violation of Probate Code §9800,*
  - *using the funds received for purposes other than the purposes allowed by Probate Code §9800 (also a violation), including the majority for Petitioner's personal use ("a new business venture").*
  - *This constitutes an unauthorized preliminary distribution in violation of Probate Code §11621, which states that the Court may authorize preliminary distribution if it appears that it may be made without loss to creditors or injury to the estate.*
  - *Petitioner then sold the real property and used the remainder of the funds for personal use, which is further unauthorized preliminary distribution in violation of Probate Code §11621.*Although Petitioner is the sole heir, his duty is first to the estate, including administration and payment of creditors. It appears that Petitioner's actions have resulted in an insolvent estate and an unpaid creditor.  
The Court may require that any language approving these acts be stricken from the final order.
2. Petitioner requests to assume personal liability for payment of the creditor's claim and executed "Priority" and "Secondary Assignments of Beneficial Interest in Estate of Dorothy Jones Ripperdan," wherein he assigns his beneficial interest as an heir of his deceased great-aunt for payment of the balance of the attorney fees and Bank of America Creditor's Claim.

Petitioner explains that he was recently advised that he is an heir of this estate, which "may" be enough to pay the Creditor's Claim and the remainder of the statutory attorney fees, but that the principal asset of the estate is held by the California Controller's office and will "probably not be paid to him any time soon."

Attorney Barrus' declaration indicates that the estate is not being probated, but is subject to a Petition to Determine Succession.

The Court may require clarification and authority for assumption and/or reliance on assignment for payment of the creditor's claim.

DOD: 10/20/11		<b>ERIC SCHLOEN</b> , petitioner, was appointed Special Administrator without bond. Letters will expire 5/13/13.  <i>Petitioner was appointed Special Administrator for the limited purpose of obtaining Medi-Cal benefits for the decedent to settle medical bills incurred by decedent prior to his death. Petitioner is an agent of hospital where decedent died.</i>  I & A - waived per order appointing special administrator.  <b>Petitioner states</b> he performed all duties necessary as special administrator as he obtained health benefits for the decedent, the estate has no assets and there is no longer a need for a special administrator.  <b>Petitioner Prays for an Order:</b> 1) Terminating the administration of the estate and discharging the Special Administrator.	<b>NEEDS/PROBLEMS/COMMENTS:</b>	
Cont. from				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			W/
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

Reviewed by: KT
Reviewed on: 9/28/12
Updates:
Recommendation: SUBMITTED
File 7 - West